

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
**No. 1:18-CV-45**

|                        |   |                        |
|------------------------|---|------------------------|
| KIMBRELY JOE BYARS,    | ) |                        |
|                        | ) |                        |
|                        | ) |                        |
| Plaintiff,             | ) |                        |
|                        | ) |                        |
| v.                     | ) |                        |
|                        | ) |                        |
|                        | ) | <u>ORDER TO REMAND</u> |
| NANCY A. BERRYHILL,    | ) |                        |
|                        | ) |                        |
| Acting Commissioner of | ) |                        |
| Social Security        | ) |                        |
| Defendant.             | ) |                        |
| <hr/>                  | ) |                        |

This matter is before the court on Plaintiff's Complaint and Defendant's Motion for Remand to the Commissioner for further administrative proceedings. The Commissioner wishes to conduct further fact finding, including holding a new hearing. Plaintiff's counsel consents to the Government's Motion for Remand and further consents to withdrawing as moot Plaintiff's motion to remand on other grounds filed herein on July 30<sup>th</sup> as Document Number 11.

The Court finds good cause has been alleged for Defendant's Motion to remand. Accordingly, the Court hereby reverses the Commissioner's decision under sentence four of 42 U.S.C. § 405(g)

and remands the case to the Commissioner for further proceedings, including a new hearing. See Shalala v. Schaefer, 509 U.S. 292 (1993); Melkonyan v. Sullivan, 501 U.S. 89 (1991).

The Court further orders that Plaintiff's Motion to remand filed herein on July 30<sup>th</sup> as Document Number 11 be, and is hereby, withdrawn as moot.

The Clerk of Court is directed to enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

Signed: August 30, 2018

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

